

Introduced by Senator AlarconFebruary 26, 2003

Senate Constitutional Amendment No. 11—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 16 to Article XI thereof, by amending Section 1 of Article XIII A thereof, by amending Section 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to infrastructure projects.

LEGISLATIVE COUNSEL'S DIGEST

SCA 11, as introduced, Alarcon. Local government: special taxes and general obligation bonds: infrastructure projects.

(1) The California Constitution requires the approval of $\frac{2}{3}$ of the voters voting in an election to authorize the incurrence of indebtedness by a local agency, except that in the case of a school district, community college district, or county office of education, the issuance of general obligation bonds may be approved by 55% of the voters, or, in the case of repair, construction, or replacement of an unsafe public school building, by a majority of the voters.

This measure would authorize a local government, as defined, with the approval of a majority of its voters voting on the proposition in an election, to incur indebtedness in the form of general obligation bonds to fund infrastructure projects, including construction of affordable housing for persons of very low, low, and moderate income, transportation enhancement activities, acquisition of land for open-space use, and other general infrastructure needs.



Under the California Constitution, the maximum amount of any ad valorem tax on real property may not exceed 1% of the full cash value of the property with certain exceptions, including bonded indebtedness incurred by a school district for school facilities that is approved by 55% of the voters in the district voting on the proposition.

This measure would authorize, as an additional exception to the 1% maximum tax rate on real property, bonded indebtedness incurred by a local government for the construction of one or more infrastructure projects, as described above, with the approval of a majority of the votes cast by the voters voting on the proposition.

(2) The California Constitution conditions the imposition of a special tax by a city, county, or special district, other than certain school entities, upon the approval of $\frac{2}{3}$ of the voters of the city, county, or special district voting on that tax.

This measure would authorize a local government, as defined, with the approval of a majority of its voters voting on the proposition, to impose a special tax, that it is otherwise authorized to impose, if the tax is imposed exclusively to fund infrastructure projects, including construction of affordable housing for persons of very low, low, and moderate income, transportation enhancement activities, acquisition of land for open-space use, and other general infrastructure needs.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2003–04 Regular
3 Session commencing on the second day of December 2002,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:

7 First—That Section 16 is added to Article XI thereof, to read:

8 SEC. 16. (a) A local government that is otherwise
9 authorized by law to impose a special tax may, with the approval
10 of a majority of its voters voting on the proposition in an election,
11 impose a special tax to fund the purposes specified in subdivision
12 (b).

13 (b) The revenues derived in each fiscal year from any special
14 tax imposed pursuant to subdivision (a) shall be expended in
15 accordance with the following:



1 (1) At least 25 percent of the revenues shall be expended for the
2 construction of affordable housing for persons of very low, low,
3 and moderate income, as defined by Section 20052.5 of the Health
4 and Safety Code, or any successor to that statute.

5 (2) At least 25 percent of the revenues shall be expended for
6 transportation enhancement activities, as defined in paragraph (3)
7 of subsection (a) of Section 101 of Title 23 of the United States
8 Code, as that section read on January 1, 2002, or any successor to
9 that statute, including transit infrastructure, maintenance and
10 operations, safe routes to school projects, incentives for
11 transit-oriented development, bus shelters, traffic calming
12 measures, bicycle parking and storage infrastructure,
13 improvements to ensure compliance with laws governing access
14 for persons with disabilities under state law and the federal
15 Americans with Disabilities Act (42 U.S.C. Sec. 12101 and
16 following) or any successor to that statute, and streetscape
17 improvements.

18 (3) At least 25 percent of the revenues shall be expended for the
19 acquisition of land for open-space use, and open-space land, as
20 those terms are defined by Sections 51201 and 65560 of the
21 Government Code, respectively, or any successors to those
22 statutes.

23 (4) Any balance of the revenues shall be expended for general
24 infrastructure needs, including, but not limited to, water, sewer,
25 utility, brownfield reclamation, transit capital projects, and
26 maintenance of local streets and roads.

27 (5) No more than 5 percent of the revenue balance identified in
28 paragraph (4) may be used for administrative costs.

29 (c) For the purposes of this section:

30 (1) “Infrastructure projects” has the same meaning as “public
31 development facilities” as that term is defined in subdivision (q)
32 of Section 63010 of the Government Code, or any successor to that
33 subdivision.

34 (2) “Local government” has the same meaning as that term is
35 defined in subdivision (b) of Section 1 of Article XIII C.

36 (3) “Special tax” does not include an ad valorem tax on real
37 property or a transaction tax or sales tax on the sale of real property.

38 (d) Prior to the election on the proposition described in
39 subdivision (a), the local government shall inform its voters of the
40 specific projects the special tax revenues are intended to fund

1 under subdivision (b) for the first two fiscal years in which the tax
2 is to be levied. If the proposition to impose the special tax is
3 approved, the local government shall thereafter provide
4 appropriate public notice, prior to July 1 of the third fiscal year in
5 which the tax is to be levied, and biennially thereafter, of the
6 specific projects that the special tax are intended to fund in the
7 subsequent two-year period, including additional projects or
8 modifications of existing projects.

9 Second—That Section 1 of Article XIII A thereof is amended
10 to read:

11 SECTION 1. (a) The maximum amount of any ad valorem
12 tax on real property shall not exceed ~~One~~ *one* percent (1%) of the
13 full cash value of such property. The one percent (1%) tax to be
14 collected by the counties and apportioned according to law to the
15 districts within the counties.

16 (b) The limitation provided for in subdivision (a) ~~shall~~ *does* not
17 apply to ad valorem taxes or special assessments to pay the interest
18 and redemption charges on any of the following:

19 (1) Indebtedness approved by the voters prior to July 1, 1978.

20 (2) Bonded indebtedness for the acquisition or improvement of
21 real property approved on or after July 1, 1978, by two-thirds of
22 the votes cast by the voters voting on the proposition.

23 (3) Bonded indebtedness incurred by a school district,
24 community college district, or county office of education for the
25 construction, reconstruction, rehabilitation, or replacement of
26 school facilities, including the furnishing and equipping of school
27 facilities, or the acquisition or lease of real property for school
28 facilities, approved by 55 percent of the voters of the district or
29 county, as appropriate, voting on the proposition on or after the
30 effective date of the measure adding this paragraph. This
31 paragraph shall apply only if the proposition approved by the
32 voters and resulting in the bonded indebtedness includes all of the
33 following accountability requirements:

34 (A) A requirement that the proceeds from the sale of the bonds
35 be used only for the purposes specified in ~~Article XIII A, Section~~
36 ~~4(b)(3)~~ *this paragraph (3)*, and not for any other purpose,
37 including teacher and administrator salaries and other school
38 operating expenses.

39 (B) A list of the specific school facilities projects to be funded
40 and certification that the school district board, community college

board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(4) Bonded indebtedness incurred by a local government for the construction of one or more infrastructure projects, as specified in paragraph (3) of subdivision (b) of Section 18 of Article XVI, with the approval of a majority of the votes cast by the voters voting on the proposition on or after the effective date of the measure adding this paragraph.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b).

Third—That Section 4 of Article XIII A thereof is amended to read:

~~Section 4. Cities, Counties and special districts, Except as provided by Section 16 of Article XI, a city, county, or special district, by a two-thirds vote of the qualified electors of such district its voters voting on the proposition in an election, may impose special taxes on such district a special tax within that city, county, or special district, except an ad valorem taxes tax on real property or a transaction transactions tax or sales tax on the sale of real property within such City, County that city, county, or special district.~~

Fourth—That Section 2 of Article XIII C thereof is amended to read:

~~SEC. 2. Local Government Tax Limitation.~~ Notwithstanding any other provision of this Constitution:

~~(a) All taxes—A tax imposed by any local government shall be deemed to be is either a general taxes tax or a special taxes tax. Special—A special purpose districts district or agencies agency,~~

1 including *a school districts, shall have district, has no power*
2 *authority to levy a general taxes tax.*

3 (b) ~~No~~ A local government may *not* impose, extend, or increase
4 any general tax unless and until that tax is submitted to the
5 electorate and approved by a majority vote. A general tax ~~shall is~~
6 ~~not be~~ deemed to have been increased if it is imposed at a rate not
7 higher than the maximum rate so approved. The election required
8 by this subdivision shall be consolidated with a regularly
9 scheduled general election for members of the governing body of
10 the local government, except in cases of emergency declared by a
11 unanimous vote of the governing body.

12 (c) Any general tax imposed, extended, or increased, without
13 voter approval, by any local government on or after January 1,
14 1995, and prior to the effective date of this article, ~~shall may~~
15 continue to be imposed only if *that general tax is* approved by a
16 majority vote of the voters voting in an election on the issue of the
17 imposition, which election ~~shall be is held within two years of the~~
18 ~~effective date of this article~~ *no later than November 6, 1998*, and
19 in compliance with subdivision (b).

20 (d) ~~No~~ *Except as provided by Section 16 of Article XI*, a local
21 government may *not* impose, extend, or increase any special tax
22 unless and until that tax is submitted to the electorate and approved
23 by a two-thirds vote. A special tax ~~shall is not be~~ deemed to have
24 been increased if it is imposed at a rate not higher than the
25 maximum rate so approved.

26 Fifth—That Section 3 of Article XIII D thereof is amended to
27 read:

28 SEC. 3. ~~Property Taxes, Assessments, Fees and Charges~~
29 ~~Limited.~~ (a) ~~No~~ *An agency may not assess a tax, assessment, fee,*
30 *or charge shall be assessed by any agency* upon any parcel of
31 property or upon any person as an incident of property ownership
32 except:

33 (1) The ad valorem property tax imposed pursuant to Article
34 XIII and Article XIII A.

35 (2) Any special tax receiving, *as applicable*, a two-thirds vote
36 pursuant to Section 4 of Article XIII A *or Section 2 of Article*
37 *XIII C, or a majority vote pursuant to Section 16 of Article XI.*

38 (3) Assessments as provided by this article.

39 (4) Fees or charges for ~~property-related~~ *property-related*
40 services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service ~~shall are not be~~ deemed charges or fees imposed as an incident of property ownership.

Sixth—That Section 18 of Article XVI thereof is amended to read:

SEC. 18. (a) ~~No—~~*Except as otherwise provided by subdivision (b), a county, city, town, township, board of education, or school district, shall may* incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for ~~such that year, without the assent of only if both of the following conditions are met:~~

(1) ~~The indebtedness or liability is approved by two-thirds of the voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at such election; nor unless before.~~

(2) ~~Before or at the time of incurring such the~~ indebtedness, provision ~~shall be~~ is made for the collection of an annual tax sufficient to pay the interest on ~~such the~~ indebtedness as it falls due, and to provide for a sinking fund for the payment of the principal thereof, on or before maturity, which ~~shall may~~ not exceed ~~forty~~ 40 years from the time of contracting the indebtedness.

(b) ~~Notwithstanding subdivision (a), on~~ (1) *With respect to any public entity enumerated in subdivision (a) that is authorized to incur indebtedness for public school purposes, any proposition to incur indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing, or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition in an election.*

(2) ~~On or after the effective date of the measure adding this subdivision~~ November 8, 2000, in the case of any school district, community college district, or county office of education, any

1 proposition for the incurrence of indebtedness in the form of
2 general obligation bonds for the construction, reconstruction,
3 rehabilitation, or replacement of school facilities, including the
4 furnishing and equipping of school facilities, or the acquisition or
5 lease of real property for school facilities, shall be adopted upon
6 the approval of 55 percent of the voters of the district or county,
7 as appropriate, voting on the proposition at an election. This
8 subdivision shall apply ~~only~~ to a proposition for the incurrence of
9 indebtedness in the form of general obligation bonds for the
10 purposes specified in this subdivision *only* if the proposition meets
11 all of the accountability requirements of paragraph (3) of
12 subdivision (b) of Section 1 of Article XIII A.

13 (3) (A) *A local government may, with the approval of a*
14 *majority of its voters voting on the proposition in an election, incur*
15 *indebtedness in the form of general obligation bonds for*
16 *infrastructure projects, subject to the expenditure restrictions in*
17 *subparagraph (B).*

18 (B) *The revenues derived from any general obligation bond*
19 *pursuant to subparagraph (A) shall be expended in accordance*
20 *with the following:*

21 (i) *At least 25 percent of the revenues shall be expended for the*
22 *construction of affordable housing for persons of very low, low,*
23 *and moderate income, as defined in Section 50052.5 of the Health*
24 *and Safety Code, or any successor to that statute.*

25 (ii) *At least 25 percent of the revenues shall be expended for*
26 *transportation enhancement activities, as defined in paragraph*
27 *(3) of subsection (a) of Section 101 of Title 23 of the United States*
28 *Code, as that section read on January 1, 2002, or any successor*
29 *to that statute, including transit infrastructure, maintenance and*
30 *operations, safe routes to school projects, incentives for*
31 *transit-oriented development, bus shelters, traffic calming*
32 *measures, bicycle parking and storage infrastructure,*
33 *improvements to ensure compliance with laws governing access*
34 *for persons with disabilities under state law and the federal*
35 *Americans with Disabilities Act (42 U.S.C. Sec. 12101 and*
36 *following) or any successor to that statute, and streetscape*
37 *improvements.*

38 (iii) *At least 25 percent of the revenues shall be expended for the*
39 *acquisition of land for open-space use, and open-space land, as*
40 *those terms are defined by Sections 51201 and 65560 of the*



1 *Government Code, respectively, or any successors to those*
2 *statutes.*

3 *(iv) Any balance of the revenues shall be expended for general*
4 *infrastructure needs, including, but not limited to, water, sewer,*
5 *utility, brownfield reclamation, transit capital projects, and*
6 *maintenance of local streets and roads.*

7 *(v) No more than 5 percent of the revenue balance identified in*
8 *clause (iv) may be used for administrative costs.*

9 *(C) For the purposes of this section:*

10 *(i) “Infrastructure projects” has the same meaning as “public*
11 *development facilities” as that term is defined in subdivision (q)*
12 *of Section 63010 of the Government Code, or any successor to that*
13 *subdivision.*

14 *(ii) “Local government” has the same meaning as that term is*
15 *defined in subdivision (b) of Section 1 of Article XIII C.*

16 *(D) Prior to the election on the bond proposition described in*
17 *subparagraph (A), the local government shall inform its voters of*
18 *the specific projects that the general obligation bond proceeds will*
19 *fund under subparagraph (B).*

20 *(c) When two or more propositions for incurring any*
21 *indebtedness or liability are submitted at the same election, the*
22 *votes cast for and against each proposition shall be counted*
23 *separately, and when two-thirds or a majority or 55 percent of the*
24 *voters, as the case may be, voting on any one of those propositions,*
25 *vote in favor thereof, the proposition shall be deemed adopted.*

